IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL ST.NO.5622 OF 2000

Bhikaji Vithal Gurav ...Appellant
vs.
Sitabai Rama Gulekar & Anr. ...Respondents

Ms A.R.S.Baxi for the Appellant

CORAM: A.S.OKA,J.
DATE : NOVEMBER 21,2007.

P.C.:

1. Heard learned Advocate for the Appellant. The submission of the learned Advocate for the Appellant is that the first Respondent-original plaintiffs could not be necessarily in possession of the suit property. The submission is that though the aspect of legal necessity was not argued the Appellate Court has not considered the plea.

2. I have carefully considered the submissions. Both the courts below have recorded a concurrent finding of fact that the first Respondent-plaintiff has established that she was in possession and her possession was based on lawful title. Both the courts below and especially the Appellate Court has found that the father of the first Respondent purchased the suit property by a registered sale deed. The Appellate Court has rightly held that the Appellant being a party to the disputed sale deed is estopped from taking such plea of want of legal necessity.

3. In view of concurrent findings of fact, no substantial question of law arises. Second Appeal is dismissed with no order as to costs.

JUDGE